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SENNIGER POWERS LLP (MSFT)			JOO, JOSHUA	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MELISSA W. DUNN

Appeal 2009-006331
Application 10/084,859¹
Technology Center 2400

Before JEAN R. HOMERE, DEBRA K. STEPHENS, and
JAMES R. HUGHES, *Administrative Patent Judges.*

HUGHES, *Administrative Patent Judge.*

DECISION ON APPEAL²

¹ Application filed February 27, 2002. The real party in interest is Microsoft Corp. (Br. 1.)

² The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

The Appellant appeals from the Examiner's rejection of claims 3, 5, 6, 9-13, 15-19, 21, 29, 30, and 32-37 under authority of 35 U.S.C. § 134(a). Claims 1, 2, 4, 7, 8, 14, 20, 22-28, 31, and 38-46 have been canceled. The Board of Patent Appeals and Interferences (BPAI) has jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Appellant's Invention

The invention at issue on appeal relates to a system and method for allowing a user of web-services (Internet based services) to control access to user-specific information stored in a network computer system, e.g., in a data store associated with a web-service provider. (Spec. 1, ll. 3-8; 11, ll. 2-27.)³

Representative Claim

Independent claim 15 further illustrates the invention. It read as follows:

15. A method of controlling access to user specific information for use in a network computer system including a web-services provider, a user of a service provided by the web-services provider, and a client of the web-services provider, said method of controlling access to the user-specific information comprising:

operatively receiving at the web-services provider a request from the client to access the certain user-specific

³ We refer to Appellant's Specification ("Spec."); Appeal Brief ("Br.") filed May 21, 2007; and Response to Notification of Non-Compliant Appeal Brief ("Response") filed December 18, 2007. We also refer to the Examiner's Answer ("Ans.") mailed February 25, 2008.

information in the data store wherein the web-services provider maintaining a data store of user-specific information associated with the user, said user-specific information accessible by the user and having access by the client controlled by the user, said client seeking access to certain of the user-specific information in the data store;

generating an intended use request by the client of the certain user-specific information in the data store;

determining an allowed level of access permitted by the user;

comparing the generated intended use request with the determined allowed level of access;

invoking a consent engine in response to the client's request if the generated intended use request is outside the allowed level of access, said consent engine informing the user of the client's request to access the certain user-specific information in the data store and inviting the user to permit or to deny the client's request to access the certain user-specific information in the data store; and

completing the request from the client to access the certain user-specific information in the data store when the generated intended use request by said client of the certain user-specific information is within the determined allowed level of access permitted by the user.

References

The Examiner relies on the following references as evidence of unpatentability:

Kramer	US 5,414,852	May, 9, 1995
Ukelson	US 6,338,096 B1	Jan. 8, 2002
Erickson	US 2003/0081791 A1	May 1, 2003 (filed Oct. 26, 2001)

Chen	US 2003/0191703 A1	Oct. 9, 2003 (filed Feb. 1, 2002)
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Desai	US 6,820,204 B1	Nov. 16, 2004 (filed Mar. 31, 2000)
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The American Heritage Dictionary of the English Language: Fourth Edition (2000).

Rejections on Appeal

The Examiner rejects claims 5, 15, 19, 21, 29, 30, and 32-37 under 35 U.S.C. § 102(e) as being anticipated by Chen.

The Examiner rejects claims 3, 10, 13, and 16-18 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Chen and Kramer.⁴

The Examiner rejects claim 6 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Chen and Ukelson.

The Examiner rejects claim 9 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Chen and Desai.

The Examiner rejects claims 11 and 12 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Chen, Kramer, and Erickson.

⁴ The Examiner's statement of the rejection lists claims 3, 10, 13, 16, and 17 (Ans. 9), but discusses claim 18, which is dependent on claim 17, in the body of the rejection (Ans. 11). We find this typographical error to be harmless, and correct the statement of rejection in the interest of clarity.

ISSUES

Based on our review of the administrative record, Appellant's contentions, and the Examiner's findings and conclusions, the pivotal issue before us is as follows:

Does the Examiner err in finding the Chen reference discloses "invoking a consent engine in response to the client's request if the generated intended use request is outside the allowed level of access, said consent engine informing the user of the client's request to access the certain user-specific information in the data store and inviting the user to permit or to deny the client's request" as recited in Appellant's claim 15?

FINDINGS OF FACT (FF)

Chen Reference

1. Chen describes a system for aggregating data contained in multiple client accounts and reporting the aggregated account information to the client and other interested parties to whom the client has granted access permission according to a client specified level of access permission for the interested party. (Abst.; ¶¶ [0011], [0012], [0040], [0136]-[0139], [0164].) Chen maintains a set of client permissions, set by the client for the interested parties and for the clients' accounts. (¶¶ [0171]-[0172].) The client can change or grant access permission to interested parties, for example, from a list of potential interested parties supplied by an application server and/or Chen's aggregation system (¶¶ [0175]-[0176].) As Chen explains:

[0175] If the client selects the field containing the name (or the field where the name would appear if no name is currently listed) for an interested party 1410 associated with a particular aggregated account 1405, the client terminal may display a list

of potential interested parties 1410 for whom the client user may choose to grant account access. The list of potential interested parties 1410 may be provided by the application server along with an applet transmitted to the client terminal pursuant to client logon using the client terminal. The application server may obtain the current set of interested parties 1410 from client account data using the database server.

[0176] In one embodiment, the data aggregation system may maintain and store the list of potential interested parties 1410 based upon the interested parties 1410 previously entered or selected by the client user for other aggregated accounts 1405. The client user can add or delete an interested party 1410 by highlighting a particular interested party 1410 from among those displayed and then selecting the highlighted interested party 1410 or deleting it, depending on the change to be made. New interested parties 1410 not named in the displayed list may be entered using the client terminal keyboard or other data entry device.

(¶¶ [0175]-[0176].)

ANALYSIS

Appellant elects to argue the anticipation rejection of independent claims 15 and 29, and does not separately argue dependent claims 19 and 21 (dependent on claim 15), nor dependent claims 5, 30, and 32-37 (dependent on claim 29). We, therefore, select independent claim 15 as representative of Appellant's groupings and arguments, and we will address Appellant's arguments with respect thereto. 37 C.F.R. § 41.37 (c)(1)(vii). *See In re Nielson*, 816 F.2d 1567, 1572 (Fed. Cir. 1987).

Appellant has the opportunity on appeal to the Board of Patent Appeals and Interferences (BPAI) to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) (citing *In re*

Rouffet, 149 F.3d 1350, 1355 (Fed. Cir. 1998)). The Examiner sets forth a detailed explanation of a reasoned conclusion of anticipation in the Examiner's Answer with respect to representative claim 15 (Ans. 3-5, 14-19) and claim 29 (Ans. 5-6, 19-21). The Examiner also sets forth a detailed explanation of a reasoned conclusion of obviousness in the Examiner's Answer with respect to claims 3, 6, 9-13, and 16-18. (Ans. 8-14.) Therefore, we look to the Appellant's Brief to show error in the proffered reasoned conclusions. *See Kahn*, 441 F.3d at 985-86.

*Issue 1: Arguments Concerning the Examiner's Rejection of
Claims 5, 15, 19, 21, 29, 30, and 32-37
under 35 U.S.C. § 102(e)*

The Examiner rejects representative claim 15 for being anticipated by the Chen reference. (Ans. 3-5, 14-19.) Appellant contends, *inter alia*, that Chen "fails to disclose or teach 'invoking a consent engine in response to the client's request if the generated intended use request is outside the allowed level of access, said consent engine informing the user of the client's request to access the certain user-specific information in the data store and inviting the user to permit or to deny the client's request'" (Br. 4; *see* Br. 8-9.) The Examiner finds that Chen discloses the disputed feature. (Ans. 4, 17-19.) Specifically, the Examiner finds that:

Chen teaches [of] presenting a client user a list of potential or new interested parties (Paragraphs 0175-176). The potential or new interested parties on the list do not have access to client account data until the client user approves account access for the potential or new interested parties on the list. Any login requests by the potential or new interested parties would be "outside the allowed level of access" permitted by the client user. By the presenting the list, the client user is informed of the potential or new interested parties that are

“outside the allowed level of access” and desire access to the client account data, which meets the scopes [sic] of “informing the user of the client’s request to access the certain user-specific information in the data store”.

(Ans. 19.)

Based on the record before us, we find error in the Examiner’s anticipation rejection of representative claim 15. We agree with Appellant that the Chen reference does not disclose the disputed feature of “invoking a consent engine in response to the client’s request . . . [and] informing the user of the client’s request” for essentially the reasons espoused by Appellant.

As detailed in the Findings of Fact section *supra*, Chen describes a set of client permissions, set by the client (user) for the interested parties and for the clients’ accounts. The client can grant initial access permission to potential interested parties, or change access permission for interested parties. The potential interested parties may be presented to a user as a list of potential interested parties supplied by an application server and/or Chen’s aggregation system. (FF 1.) We, however, do not find Chen describes providing or generating the list of potential interested parties (i.e., invoking the consent engine) in response to a rejected interested party (client, other than the user) request (i.e., a client’s generated intended use request, which is outside the allowed level of access). Nor does Chen describe in any way informing the user of a failed attempted access request. Rather, Chen’s list is provided in response to a user’s action “[when] the client [(user)] selects the field containing the name . . . for an interested party 1410 associated with a particular aggregated account 1405, the client terminal may display a list of potential interested parties.” (FF 1, ¶ [0175].)

As pointed out by Appellant, the list of potential interested parties is provided to the user by the application server, which “maintains and stores the list of potential interested parties ‘based upon the interested parties previously entered or selected by the client user for other aggregated accounts.’” (Br. 9; *see* FF 1, ¶ [0176].) Consequently, we agree with Appellant that Chen does not describe providing the potential interested parties list in response to a client’s request, nor informing the user of the client’s request. Thus, Chen does not disclose “invoking a consent engine in response to the client’s request if the generated intended use request is outside the allowed level of access, said consent engine informing the user of the client’s request to access the certain user-specific information in the data store and inviting the user to permit or to deny the client’s request” as recited in Appellant’s claim 15.

We, therefore, are constrained by the record before us to find that Chen does not disclose at least the disputed feature of “invoking a consent engine in response to the client’s request.” The Examiner has failed to set forth a *prima facie* anticipation rejection. It follows that Appellant has persuaded us to find error in the Examiner’s anticipation rejection of Appellant’s representative independent claim 15.

Appellant’s independent claim 29 includes a limitation similar in scope to the disputed limitation of claim 15 – “a consent engine generating an option list in response to the client’s request” (*see* Br. 17, Claim App’x., claim 29). It follows, for the reasons discussed *supra*, that the Chen reference also does not anticipate Appellant’s independent claim 29. Appellant’s dependent claims 19 and 21 (dependent on claim 15), and dependent claims 5, 30, and 32-37 (dependent on claim 29) depend on their

respective base independent claims. Therefore, based on the record before us, we find that the Examiner erred in finding the Chen discloses each limitation recited in Appellant's claims 5, 15, 19, 21, 29, 30, and 32-37. Accordingly, we reverse the Examiner's anticipation rejection of these claims.

Rejection of Claims 3, 6, 9-13, and 16-18 under § 103

Appellant does not separately argue the Examiner's obviousness (§ 103) rejections of dependent claims 3, 6, 9-13 (dependent on claim 29), and 16-18 (dependent on claim 15), instead relying on the arguments made with respect to claim 15 (*supra*). (Br. 2, 9, 11.) Based on the record before us, we also find error in the Examiner's obviousness rejection of Appellant's dependent claims 3, 6, 9-13, and 16-18. As we explained with respect to claims 15 and 29 *supra*, the Chen reference does not disclose at least one feature recited in the claims. The Examiner rejects each of claims 3, 6, 9-13, and 16-18 as unpatentable in view of a combination including the Chen reference. (Ans. 8-14.) None of the cited references cures the deficiencies of the Chen reference. Accordingly, we must also reverse the Examiner's obviousness rejections of claims 3, 6, 9-13, and 16-18.

CONCLUSIONS OF LAW

Appellant has shown that the Examiner erred in rejecting claims 5, 15, 19, 21, 29, 30, and 32-37 under 35 U.S.C. § 102(e).

Appellant has shown that the Examiner erred in rejecting claims 3, 6, 9-13, and 16-18 under 35 U.S.C. § 103(a).

DECISION

We reverse the Examiner's rejection of claims 5, 15, 19, 21, 29, 30, and 32-37 under 35 U.S.C. § 102(e).

We reverse the Examiner's rejection of claims 3, 6, 9-13, and 16-18 under 35 U.S.C. § 103(a).

REVERSED

msc

Senniger Powers LLP (MSFT)
100 North Broadway
17th Floor
St. Louis, MO 63102